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November 30, 2017

The Honorable Rex W. Tillerson  
U.S. Secretary of State  
2201 C Street, N.W.  
Washington, D.C. 20520

The Honorable Rick Perry  
U.S. Secretary of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

Dear Secretaries Tillerson and Perry,

On November 28, members of the Trump Administration testified before the Senate Foreign Relations Committee and confirmed reports of ongoing discussions between the United States and the Kingdom of Saudi Arabia on possible peaceful nuclear cooperation. Their testimony also brought to light the existence of similar discussions between the United States and the Hashemite Kingdom of Jordan.

I was particularly troubled to learn of these discussions the same day the *Wall Street Journal* reported on a plan promoted by former National Security Advisor Michael Flynn to build nuclear power plants throughout the Middle East — plants intended not only for commercial purposes but also to “strengthen Iran’s rivals.”<sup>1</sup> At present, the Middle East is a volatile region beset by rivalries and proxy wars that threaten not only the countries in the region — including Israel — but also American interests. The overriding test that we must apply to all peaceful nuclear cooperation agreements with foreign countries is whether they serve U.S. national security interests. Unfortunately, the confluence of Mr. Flynn’s activities and the discussions with Saudi Arabia and Jordan could be construed as putting politically connected private interests above national ones. We must therefore carefully scrutinize any proposed peaceful nuclear cooperation agreements with those countries.

Peaceful nuclear cooperation agreements — so-called 123 agreements, which often last 30 years or longer — are important non-proliferation tools that have major implications for U.S.

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<sup>1</sup> <https://www.wsj.com/articles/flynns-promotion-of-nuclear-plant-project-went-deep-into-the-white-house-1511901009>

national security. They must ensure that American nuclear technologies, materials, and expertise do not contribute to development of a nuclear weapons program.

Further, the specific terms of any peaceful nuclear cooperation agreement can have serious geopolitical implications that must also be carefully considered. For example, in the existing 123 agreement between the United States and the United Arab Emirates, the United Arab Emirates commits not to engage in enrichment and reprocessing — nuclear activities that can generate weapons-grade uranium or plutonium — within its territory. But the agreement also permits the United Arab Emirates to re-negotiate its terms if other countries in the Middle East are offered less stringent restrictions on these types of activities. Thus, any 123 agreement with Saudi Arabia or Jordan would necessarily have broader implications for the region.

The Atomic Energy Act requires the President to keep the Senate Foreign Relations Committee “fully and currently informed of any initiative or negotiations relating to a new or amended agreement for peaceful nuclear cooperation.”<sup>2</sup> The Act also mandates that Congress review the text of any proposed nuclear cooperation agreement, and authorizes Congress to disapprove an agreement. Yet, to my knowledge, no member of the Senate Foreign Relations Committee has received a briefing on the status of the Trump Administration’s discussions about potential peaceful nuclear cooperation agreements with Saudi Arabia, Jordan, or any other country.

Accordingly, as soon as possible, I respectfully request that representatives from at least the Departments of State and Energy, and the National Security Council, brief all interested members of the Foreign Relations Committee on the status of all ongoing discussions between the United States and other countries on the potential conclusion of or amendment to peaceful nuclear cooperation agreements.

Sincerely,



Edward J. Markey  
United States Senator

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<sup>2</sup> 41 U.S.C. § 2153(e).